

GREATER ESSEX COUNTY DISTRICT SCHOOL BOARD

Regulation: Trustee Code of Conduct

Reference No: R-GV-06

DEFINITIONS

In this regulation, except where otherwise provided in this regulation,

- “Board” means GECDSD Board of Trustees;
- “Chair” means Chairperson of the Board of Trustees;
- “Code” or “Code of Conduct” means GECDSD Trustee Code of Conduct;
- “Trustee(s)” means Trustee(s) of the Board or School Board Members, and student trustees;
- “Vice-Chair” means Vice-Chairperson of the Board of Trustees.

PURPOSE

1. A trustee position is an elected position which carries with it the understanding that the electorate will decide at election time its support for the effectiveness of a Trustee. At the same time, it is important to recognize the public trust and responsibility the collective body carries and that this trust and responsibility is honoured through determining and enforcing norms of acceptable behaviour.
2. A code of conduct policy contributes to confidence in public education and respect for the integrity of Trustees in the community. It deals with acceptable and respectful behaviour.

OUR VALUES

3. The Greater Essex County District School Board, in partnership with the community, provides learning opportunities which support, challenge, and inspire all students to achieve their full potential and enable them to participate meaningfully in their communities.

Trustee behaviour should be guided by the following values:

- All students can learn.
- A safe, stimulating, caring and welcoming environment, which accommodates individual students’ learning styles and needs, promotes and facilitates the learning process.
- Planned, comprehensive programs and services enrich the lives of learners.
- Skilled, caring and motivated employees make a positive difference in the lives of our students and are essential to our success and our future.
- Family and community interaction with the school promotes and enhances student success.
- Embracing diversity and inclusivity is the foundation of equity in public education.
- Celebrating creativity strengthens our school system and enriches all of us.

- Open, honest, and transparent communication builds trust and commitment.
- Effective planning and fiscally responsible decisions are necessary to direct our resources to maximize the learning process.
- We are accountable for our decisions.

APPLICATION

4. This Trustee Code of Conduct and the Enforcement Procedures apply to all Trustees, including the Chair of the Board, and student trustees.

TRUSTEE CODE OF CONDUCT

Integrity and Dignity of Office

5. Trustees shall discharge their duties loyally, faithfully, impartially and in a manner that will inspire public confidence in the abilities and integrity of the Board.
6. When acting or holding themselves out as Trustees of the Board, a Trustee shall conduct themselves in a manner that would not discredit or compromise the integrity of the Board.
7. When acting or holding themselves out as a Trustee, the Trustee shall treat persons equally without discrimination based on a person's race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.
8. Trustees shall recognize that the expenditure of school board funds is a public trust and endeavour to see that the funds are expended efficiently, in the best interests of the students.
9. Trustees, as leaders, must uphold the dignity of the office and conduct themselves in a professional manner, especially when attending GECDsB events, or while on GECDsB property.
10. Trustees shall ensure that their comments are issue-based and not personal, demeaning or disparaging with regard to GECDsB staff or fellow Trustees.
11. Trustees are encouraged to participate in Trustee development opportunities to enhance their ability to fulfill their obligations.

Avoidance of personal advantage and conflict of interest

12. No Trustee shall accept a gift from any person, group or entity that has dealings with the GECDsB if a reasonable person might conclude that the gift could influence the Trustee when performing their duties to the GECDsB.
 - a. the gift is of nominal value,
 - b. the gift is given as an expression of courtesy or hospitality, and
 - c. accepting the gift is reasonable in the circumstances. However, this does not, for example, preclude a Trustee from accepting a free ticket or admission to a charitable event or professional development event. Please refer to the Procurement Policy and Regulation BA-01

13. A Trustee shall not use their office to advance the Trustee's interests or the interests of any family member or person or organization with whom or with which the Trustee is related or associated.
14. No Trustee shall use their office to obtain employment with the GECDsB for the Trustee or a family member.

Compliance with Legislation

15. No Trustee shall use or permit the use of board resources for any purposes other than the business of the Board.
16. A Trustee shall discharge their duties in accordance with the *Education Act* and any regulations, directives, or guidelines thereunder and comply with the *Municipal Freedom of Information and Protection of Privacy Act*, and any other relevant legislation¹
17. Every Trustee shall comply with this Code of Conduct and uphold the spirit of this Code of Conduct.
18. Every Trustee shall respect the roles and duties of the individual Trustees, Board of Trustees, the Director of Education and the Chair and Vice-Chair.

Civil Behaviour

19. No Trustee shall engage in conduct during meetings of the Board of Trustees or committees of the Board of Trustees, and at all other times that would discredit or compromise the integrity of the GECDsB.
20. A Trustee shall not advance allegations of misconduct and/or a breach of this Code of Conduct that are trivial, frivolous, vexatious, made in bad faith or vindictive in nature against another Trustee.
21. When expressing individual views, Trustees shall respect the differing views of other Trustees, staff, students, and the public.
22. All Trustees shall endeavour to work with other Trustees and staff of the GECDsB in a spirit of respect, openness, courtesy, and co-operation.
23. Trustees shall at all times act with decorum and shall be respectful of other Trustees of the Board, staff, students and the public.

Respect for Confidentiality

24. *No Trustee shall disclose confidential information obtained or made available to them in their role as a Trustee except as authorized by law or the Board. Confidential information includes personal information about an identifiable individual or information subject to solicitor-client privilege.*
25. Every Trustee shall keep confidential any information disclosed or discussed at a meeting of the Board of Trustees or committee of the Board of Trustees, or part of a meeting of the Board or committee of the Board, that was closed to the public, and keep confidential the substance of deliberations of a meeting closed to the public, unless required to divulge such information by law or authorized to do so.
26. No Trustee shall use confidential information. information including confidential information obtained by them or made available to them in their role as a Trustee for the purpose of personal gain or for the gain of the Trustee's parent, spouse or child and shall not use such confidential information in a manner that would be detrimental to the interests of the Board [parent, spouse and child have the same meaning as in Section 1 of the *Municipal Conflict of Interest Act*.]

Upholding decisions

27. All Trustees shall accept that authority rests with the Board of Trustees, and that a Trustee has no individual authority other than that delegated by the GECD SB.
28. Each Trustee shall uphold the implementation of any Board resolution after it is passed by the Board of Trustees. A proper motion for reconsideration or rescission, if permitted by the Rules of Order, can be brought by a Trustee.
29. A Trustee should be able to explain the rationale for a resolution passed by the Board of Trustees. A Trustee may respectfully state their position on a resolution provided it does not in any way undermine the implementation of the resolution.
30. Each Trustee shall comply with GECD SB policies, procedures, By-Laws, and Rules of Order.
31. The Chair of the Board is the spokesperson to the public on behalf of the Board, unless otherwise determined by the Board. No other Trustee shall speak on behalf of the Board unless expressly authorized by the Chair of the Board or Board to do so. When individual Trustees express their opinions in public, they must make it clear that they are not speaking on behalf of the Board of Trustees or the GECD SB.

ENFORCEMENT PROCEDURES OF TRUSTEE CODE OF CONDUCT

Identifying a Breach of the Code of Conduct

32. A Trustee who has reasonable grounds to believe that a Trustee has breached the Code of Conduct may bring the alleged breach to the attention of the Board of Trustees. This is done through the Chair or Vice-Chair. (See sections 31 and 32 below).

33. Any allegation of a breach of the Code must be brought to the attention of the Chair or Vice-Chair no later than six (6) weeks after the breach comes to the knowledge of the Trustee reporting the breach. Notwithstanding the foregoing, in no circumstance shall an inquiry into a breach of the Code be undertaken after the expiration of six (6) months from the time the contravention is alleged to have occurred.
34. Any allegation of a breach of the Code of Conduct shall be investigated following the *Informal* and/or *Formal* Complaint Procedures below, as the case may be.
35. It is expected that whenever possible, allegations of a breach of the Code of Conduct by a Trustee shall be investigated following the Informal Complaint Procedure. It is recognized that from time to time a contravention of the Code may occur that is trivial, or committed through inadvertence, or an error of judgment made in good faith. In the spirit of collegiality and the best interests of the Board, the first purpose of alerting a Trustee to an alleged breach of the Code is to assist both the complainant and the Trustee against whom the allegation has been made, to understand their obligations under the Code. Only serious and/or reoccurring breaches of the Code by a Trustee should be investigated following the *Formal Complaint Procedure*.

Chair/Presiding Officer

36. The Code of Conduct applies equally to the Chair. In the case of an allegation that the Chair breached the Code of Conduct, wherever a process requires action by the Chair, it shall be modified to read the Vice-Chair.
37. Each year two alternate Trustees shall be chosen to be used when circumstances warrant that one or both Trustees are needed in place of the Chair and/or Vice-Chair of the Board to carry out any of the duties required under this Code of Conduct and Enforcement Procedures. In no circumstance shall the Trustee who brought the complaint of a breach of the Code of Conduct be involved in conducting any Formal Inquiry into the complaint, except if it does not involve them personally and they are simply bringing an alleged breach of the Code of Conduct to the attention of the Board. These alternate Trustee members shall be comprised of the Chairs of the Standing Committees, first alternate being the Chair of the Education Committee, second alternate being the Chair of the Operations and Finance Committee.
38. Nothing in this Code prevents the Chair or Presiding Officer of any meeting of the Board or committee of the Board from exercising their power pursuant to s. 207(3) of the *Education Act* to *expel or exclude from any meeting any person who has been guilty of improper conduct at the meeting*. For greater certainty, this may be done at the sole discretion of the Chair or Presiding Officer, as the case may be, and without the necessity of a complaint or conducting an inquiry before an expulsion or exclusion from a meeting. The rationale for this provision is that a Chair or Presiding Officer must have the ability to control a meeting. Any Trustee who does not abide by a reasonable expulsion or exclusion from a meeting is deemed to have breached this Code.
39. The Chair or Presiding Officer of any meeting of the Board or committee of the Board shall exercise their powers in a fair and impartial manner having due regard for every Trustee's opinion or views.
40. The Chair or Presiding Officer shall follow the special rules of order and/or the adopted Rules of Order and meeting procedures contained in any Policy or By-Law of the GECDSB. A

breach of a rule of order should be dealt with at the meeting in question by a Trustee rising to a point of order or appealing a ruling of the Chair in accordance with any applicable rule of order. Once such a motion is dealt with by the Board of Trustees, all Trustees shall abide by that decision and no further action shall be undertaken pursuant to the Enforcement Procedures of the Trustee Code of Conduct, except for persistent improper use of the applicable rules of order by the Chair or Presiding Officer.

Informal Complaint Procedure

41. The Chair on their own initiative, or at the request of a Trustee (without the necessity of providing a formal written complaint) who alleges a breach of the Code has occurred, may meet informally with a Trustee who is alleged to have breached the Code, to discuss the breach. If the Chair is alleged to have breached the Code or the Chair alleges another Trustee breached the Code and the Chair has some personal involvement in the alleged breach, then the Vice-Chair will conduct the informal complaint procedure. (See sections 31 and 32). The purpose of the meeting is to bring the alleged breach to the attention of the Trustee and to discuss remedial measures to correct the offending behaviour. The Informal Complaint Procedure is conducted in private, and restorative justice practices are encouraged.
42. The remedial measures may include a warning and/or the requirement of the Trustee to engage in the successful completion of professional development training such as that offered by the Ontario Education Services Corporation *Professional Development Program for School Board Trustees*. If the Chair and the Trustee alleged to have breached this Code cannot agree on a remedy or if the informal complaint procedure has not been concluded within two weeks of the first meeting with the Trustee who is alleged to have breached the Code of Conduct, then a formal complaint may be brought against the Trustee alleged to have breached this Code and that complaint will be dealt with in accordance with the Formal Complaint Procedure below.

Formal Complaint Procedure

43. A Trustee who has reasonable grounds to believe that another Trustee has breached the Code of Conduct may bring the breach to the attention of the Board by first providing to the Chair, a written, signed complaint setting out the following:
 - a) the name of the Trustee who is alleged to have breached the Code;
 - b) the alleged breach or breaches of the Code;
 - c) information as to when the breach came to the Trustee's attention;
 - d) the grounds for the belief by the Trustee that a breach of the Code has occurred; and
 - e) the names and contact information of any witnesses to the breach or any other persons who have relevant information regarding the alleged breach. Except as provided below, if a written complaint is filed with the Chair, then a formal inquiry shall be undertaken, unless the complainant subsequently withdraws the complaint or agrees that the complaint may be dealt with in accordance with the Informal Complaint Procedure.
44. In an election year for Trustees, a code of conduct complaint respecting a Trustee who is seeking re-election shall not be brought during the period commencing two months prior to election day and ending after the first Board of Trustees meeting after the new term of office of the Board of Trustees commences. If the Trustee accused of a breach of the Code is not re-elected, no inquiry into the alleged breach of the Code by that Trustee shall be undertaken. The limitation period for bringing a complaint shall be extended as necessary.

45. The Chair shall provide to the Trustee alleged to have breached the Code a confidential copy of the formal complaint within ten (10) days of receiving it. The Chair shall advise the Board of Trustees that a formal complaint has been received and the general nature of it. The complaint, any response to the complaint and the investigation of the complaint shall be confidential until it is before the Board of Trustees for a decision as to whether or not the Trustee has breached this Code.

Refusal to Conduct Formal Inquiry

46. If the Chair and Vice-Chair of the Board are of the opinion that the complaint is out of time, trivial, frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for a formal inquiry, they shall prepare a confidential report to all the Trustees of the Board stating their opinion and the rationale for it. Prior to finalizing the confidential report, Greater Essex County District School Board legal counsel, as retained through the Director of Education or Designate, shall be consulted. The Trustee who is alleged to have breached the Code of Conduct shall not vote on the resolution. If the opinion is adopted by the Board of Trustees a formal inquiry shall not be conducted.
47. If the Chair and Vice-Chair cannot agree on the above then a full formal inquiry shall be conducted.
48. If an allegation of a breach of the Code of Conduct with respect to non-compliance with a more specific GECDSB Policy that has its own separate complaint procedure, the allegation shall be processed under that procedure.

Steps of Formal Inquiry

49. If a formal inquiry of an alleged breach of the Code of Conduct is undertaken, it shall be done by the Chair and Vice-Chair, or any two of the Chair, Vice-Chair and the alternate Trustees, or an outside consultant chosen by the Chair and Vice-Chair in consultation with the Director of Education or Designate.
50. Regardless of who undertakes the formal inquiry the following steps shall be followed.

The *Statutory Powers Procedure Act* does not apply to anything done regarding the enforcement of this Code of Conduct. No formal trial-type hearing will be conducted.

- a) Procedural fairness shall govern the formal inquiry. The formal inquiry will be conducted in private.
- b) The formal inquiry may involve both written and oral statements by any witnesses, the Trustee bringing the complaint and the Trustee who is alleged to have breached the Code of Conduct.
- c) The Trustee who is alleged to have breached the Code of Conduct shall have an opportunity to respond to the allegations both in a private meeting with the person(s) undertaking the formal inquiry and in writing.

- d) It is expected that the formal inquiry will be conducted within 90 calendar days of the receipt of the written response to the complaint. If a longer period of time is required to complete the inquiry, the reason for the extension shall be explained in the final report to the Board. The Trustee who is alleged to have breached the Code of Conduct shall provide a written response to the allegations within 10 days of receiving the written allegation, or such extended period of the time as the investigators deem appropriate in the circumstance.
- e) If the Trustee who is alleged to have breached the Code of Conduct refuses to participate in the formal inquiry, the formal inquiry will continue in their absence.
- f) Once the formal inquiry is complete, the investigators shall provide a confidential draft copy of their report containing the findings of fact to the Trustee who is alleged to have breached the Code of Conduct and the Trustee who brought the complaint for their written comment to the investigator (s). The purpose of providing the draft report to the parties is to ensure no errors of fact are contained in it. The two Trustees shall have ten (10) days (or such reasonable period of time as deemed appropriate by the investigators) from the receipt of the draft report to provide a written response.
- g) The final report shall outline the finding of facts, and a recommendation or opinion as to whether the Code of Conduct has been breached.
- h) If the Chair and Vice-Chair when conducting the formal inquiry cannot agree on the final finding of facts, it shall be referred to an internal Trustee committee consisting of the Chair, Vice-Chair, Chair of Education Committee, Chair of Operations and Finance and the Chair of the Policy Committee.
- i) If the committee referred to in section 45(h) cannot reach a majority decision, it shall be referred to an outside investigator to complete the formal inquiry.

Suspension of Formal Inquiry

- 51. If the investigators, when conducting the formal inquiry, discover that the subject-matter of the formal inquiry is being investigated by police, that a charge has been laid, or is being dealt with in accordance with a procedure established under another Act, the formal inquiry shall be suspended until the police investigation, charge or matter under another Act has been finally disposed of. This shall be reported to the rest of the Board of Trustees.

Decision

- 52. The final report shall be delivered to the Board of Trustees, and a decision by the Board of Trustees as to whether or not the Code of Conduct has been breached and the sanction, if any, for the breach shall be made as soon as practical, but not to exceed six months after receipt of the final report by the Board of Trustees.
- 53. Trustees shall consider only the findings and recommendations in the final report when voting on the decision and sanction. No Trustee shall undertake their own investigation of the matter.
- 54. If the Board of Trustees determines that there has been no breach of the Code of Conduct or that a contravention occurred, although the Trustee took all reasonable measures to prevent

it, or that a contravention occurred that was trivial, or committed through inadvertence, or an error of judgment made in good faith, no sanction shall be imposed.

55. The determination of a breach of the Code of Conduct and the imposition of a sanction with respect to a complaint investigated in accordance with the Formal Complaint Procedure must be done by resolution of the Board at a meeting of the Board, and the vote on the resolution may be open to the public. The resolutions shall be recorded in the minutes of the meeting. The reasons for the decision may be recorded in the minutes of the meeting. Both resolutions shall be decided by a vote of at least 2/3 of the Trustees present and voting.
56. Despite s. 207 (1) of the *Education Act*, the part of the meeting of the Board of Trustees during which a breach or alleged breach of the Code of Conduct is considered, may be closed to the public when the breach or alleged breach involves any of the matters described in clauses 207(2) (a) to (e) and section 207 (2.1) being:
- a) the security of the property of the GECDSB;
 - b) the disclosure of intimate, personal or financial information in respect of a Trustee or committee, an employee or prospective employee of the GECDSB or a pupil or their parent or guardian;
 - c) the acquisition or disposal of a school site;
 - d) decisions in respect of negotiations with employees of the GECDSB;
 - e) litigation affecting the GECDSB;
 - f) a matter in which the GECDSB appointed legal counsel has advised a strong indication of probable litigation or an investigation by the Ontario Ombudsman, which may affect the GECDSB; and
 - g) an ongoing investigation by the Ontario Ombudsman affecting the GECDSB.
57. The Trustee who is alleged to have breached the Code of Conduct shall not vote on a resolution to determine whether or not there is a breach or the imposition of a sanction. The Trustee who brought the complaint to the attention of the Board of Trustees may vote on those resolutions.
58. The Trustee who is alleged to have breached the Code of Conduct may be present during the deliberations regarding the above but shall not participate in the deliberations and shall not be required to answer any questions at that meeting.
59. The Trustee who is alleged to have breached the Code of Conduct shall not in any way, after the final report is completed, influence the vote on the decision of breach or sanction, except as permitted below in section 59 (b) after these decisions have been made.

Sanctions

School Boards that have First Nation Trustees appointed to their board should have regard for Ontario Regulation 462/97 *First Nations Representation on Boards*. (See appendix 1)

60. If the Board of Trustees determines that the Trustee has breached the Code of Conduct, the Board of Trustees may impose one or more of the following sanctions:
 - a) Censure of the Trustee.
 - b) Barring the Trustee from attending all or part of a meeting of the Board or a meeting of a committee of the Board.
 - c) Barring the member from sitting on one or more committees of the Board, for the period of time specified by the Board.
61. The Board shall not impose a sanction which is more onerous than the above but may impose one that is less onerous such as a warning or a requirement that the Trustee successfully complete specified professional development courses at the expense of the Board. The Board has no power to declare the Trustee's seat vacant.
62. A Trustee who is barred from attending all or part of a meeting of the Board of Trustees or a meeting of a committee of the Board is not entitled to receive any materials that relate to that meeting or that part of the meeting and that are not available to members of the public.
63. The imposition of a sanction barring a Trustee from attending all or part of a meeting of the Board shall be deemed to be authorization for the Trustee to be absent from the meeting and therefore, not in violation of the *Education Act* regarding absences from meetings.

Reconsideration

64. If the Board determines that a Trustee has breached the Code of Conduct the Board shall,
 - a) give the Trustee written notice of the determination, the reasons for the decision and any sanction imposed by the Board
 - b) the notice shall inform the Trustee that they may make written submissions to the Board in respect of the determination or sanction by the date specified in the notice that is at least fourteen (14) days after the notice is received by the Trustee; and
 - c) consider any written submissions made by the Trustee and shall confirm or revoke the determination or sanction within 14 days after the submissions are received.
65. If the Board revokes a determination, any sanction imposed by the Board is revoked.
66. When the Board makes a determination, it shall, within the fourteen (14) days above, confirm, vary or revoke the sanction.
67. If a sanction is varied or revoked, the variation or revocation shall be deemed to be effective as of the date the original determination was made.
68. The decision of the Board to confirm or revoke a determination or confirm, vary or revoke a sanction shall be done by resolution at a meeting of the Board and the vote on the resolution shall be open to the public. Both resolutions shall be decided by a vote of at least 2/3 of the Trustees present and voting. The resolutions shall be recorded in the minutes of the meeting,

together with the reasons for confirming or revoking a determination. The Board of Trustees shall provide to the Trustee alleged to have breached the Code of Conduct written notice of the decision to confirm or revoke the determination together with reasons for the decision and written notice of any decision to confirm, vary or revoke a sanction. The Trustee alleged to have breached the Code of Conduct shall not vote on those resolutions. The Trustee who brought the complaint may vote.

69. The Trustee who is alleged to have breached the Code of Conduct may be present during the deliberations regarding the above but shall not participate in the deliberations and shall not be required to answer any questions at that meeting.
70. If appropriate, the original sanction may be stayed pending the reconsideration by the Board of the determination or sanction.

Footnotes

1. Please note that the Ministry of Education's proposed provincial provisions to be included in a Regulation includes "and comply with the *Municipal Conflict of Interest Act*." Before the Regulation is passed, OPSBA hopes to discuss with the Ministry deleting the reference to the *Municipal Conflict of Interest Act* for the following reason. If compliance with the *Municipal Conflict of Interest Act* remains as part a part of a Trustee Code of Conduct, and an allegation is made that a Trustee has breached that *Act*, then it would require a Board to make a legal determination and finding as to whether or not a Trustee has breached that *Act*. This finding could seriously prejudice a Trustee in a subsequent court application brought by a ratepayer pursuant to that *Act*. Because the *Municipal Conflict of Interest Act* has an enforcement procedure, any allegation of a breach of that *Act* should be dealt with only under that *Act*.

ACKNOWLEDGEMENT AND UNDERTAKING

I confirm that I have read, understand and agree to abide by this Trustee Code of Conduct and the Enforcement Procedures.

Name: _____

Signature: _____

Date: _____

Appendix 1

Ontario Regulation 462/97 *First Nations Representation on Boards* provides that appointed First Nation Trustees are deemed to be elected members of the board. While this means that a Trustee Code of Conduct and the Enforcement Procedures would apply equally to First Nation Trustees, school boards should have regard for the fact that the Regulation expressly provides that First Nation Trustees represent the interests of the First Nation students of that school board. School boards should consider taking this fact into consideration when imposing any sanction for a breach of the Code of Conduct by a First Nation's Trustee. For example, the Board should consider this fact when considering a sanction of barring a First Nation's Trustee from a board or committee meeting. If a matter to be considered at a meeting engages the interest of First Nation students then is a sanction to exclude a First Nation's Trustee from that meeting appropriate? As a result, school boards with First Nation Trustees may consider adding a provision to their Trustee Code of Conduct that provides for a consideration of the role of a First Nation's Trustee when imposing any sanction for a breach of the Code of Conduct.